IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.3104 OF 1998

The Mahanagar Telephone Nigam Ltd.)
a Government Company, incorporated)
under the Companies Act, 1956, and)
having their Registered Office at)
Jeevan Bharti Tower No.1, 134, Cannaught)
Circus, New Delhi and having its Bombay)
head office at Telephone House,)
Prabhadevi, Bombay 400 025 and)
Accounts Office TR III(W-II), Goregaon)
Telephone Exchange, S.V.Road,)
Bombay 400 062.) ...Plaintiffs

Versus

1. Surekha Krishna Pawar,)
M/s.S.K.Contructions,)
Shree Krishna Villa, Madh Marve Road,)
Malad (W), Mumbai 400 064.)

2. Shri Kulbhushan Sethi,)
Flat No.2, Ground Floor, No.J 13,)
Jel Mandir CHS Ltd, Bangur Nagar,)
Goregaon (W), Bombay 400 062.) ...Defendants

Ms Jyoti R. Thakkar for the Plaintiffs.

CORAM : ABHAY S.OKA, J.
DATED : AUGUST 01, 2007.

ORAL JUDGMENT:

1. Heard learned counsel appearing for the Plaintiffs. The suit is listed under the caption of "Undefended Suits for Exparte Decree".

2. The learned counsel for the Plaintiffs has tendered on record an affidavit in lieu of evidence of Smt. S.H.George, Accounts Officer (A.R.). Alongwith the said affidavit of evidence, the Plaintiffs have tendered

on record true copies of the four bills on which the claim in the suit is based as well as the office copy of the legal notice dated 20th May, 1997. The documents are taken on record and marked "Y" (collectively) for identification. According to the case of the Plaintiffs, the first Defendant was allotted a telephone connection No.8732664 in a shop premises more particularly described in plaint. An allegation has been made that the said telephone connection was unauthorizedly transferred by the first Defendant in favour of the second Defendant. The case of the Plaintiffs is that bills dated 01st November, 1992, 01st January, 1993, 01st March, 1993 and 01st May, 1993 totally amounting to Rs.01,15,692/- were not paid by the Defendants. The suit is filed after serving notice of demand by the Advocate for the Plaintiffs to the Defendants.

3. The claim of the Plaintiffs in the suit has been proved by the affidavit of Smt. S.H.George. True copies of the four bills on which the suit claim is based are also proved by the said affidavit. Hence, a case is made out for passing a decree in favour of the Plaintiffs. However, further interest will have to be allowed at the rate of 6 per cent per annum.

4. Hence, the Defendants are jointly and severally

ordered and decreed to pay to the Plaintiffs a sum of Rs.01,15,692/- together with interest thereon at the rate of 6 per cent per annum from the date of filing of the suit till payment or realisation. The Defendants shall pay costs of the suit to the Plaintiffs.

5. The Plaintiffs will be entitled to refund of court fees, if any, as per rules. Certified copy is expedited.

JUDGE